

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ERIC McCURDY,

Plaintiff,

vs.

SEATTLE SCHOOL DISTRICT,

Defendant.

Case No. 2:18-cv-01868

[King County Superior Court  
Case No.: 18-2-56702-5 SEA]

**NOTICE OF REMOVAL**

REMOVED FROM SUPERIOR COURT  
OF THE STATE OF WASHINGTON  
COUNTY OF KING

Defendant Seattle Public Schools<sup>1</sup> hereby gives notice that this matter is removed to the United States District Court for the Western District of Washington (Seattle Division). Removal is based on federal question jurisdiction because a federal question appears on the face of the initial pleading filed by Eric McCurdy. In support of its notice, Defendant states as follows:

1. On December 7, 2018, Plaintiff filed a Complaint against Defendant in the Superior Court of Washington, King County, Case No. 18-2-56702-5 SEA.

<sup>1</sup> McCurdy named Seattle School District as the Defendant. However, Seattle Public Schools is the proper name for the Defendant in this action.

1           2.       On December 7, 2018, Plaintiff provided a copy of the Complaint to Defendant  
2 Seattle Public Schools. In accordance with 28 U.S.C. § 1446(a) and Local Civil Rule 101(b), a  
3 copy of the Complaint is attached hereto as Exhibit A. Copies of all other process, pleadings  
4 and orders received by Defendants are attached as Exhibit B.

5           3.       Under 28 U.S.C. § 1446(b), a notice of removal must be filed within thirty days  
6 after a defendant receives, by service or otherwise, the initial pleading. Defendant Seattle  
7 Public Schools received the Complaint on December 7, 2018. Thus, Defendant's removal is  
8 timely.

9 **This Court Has Federal Question Jurisdiction**

10           4.       A United States District Court has "original jurisdiction of all civil actions  
11 arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331.

12           5.       Plaintiff alleges deprivation of property rights without due process "in violation  
13 of the Constitution of the United States." Plaintiff also alleges deprivation of liberty interests  
14 "in violation of the Constitution of the United States." Therefore, federal question jurisdiction  
15 exists over Plaintiff's due process claims. Compl. at 4.

16           6.       To the extent the Complaint also alleges claims arising under state law, this  
17 Court has supplemental jurisdiction over those claims under 28 U.S.C. § 1367 because they  
18 arise out of the same operative facts as Plaintiff's claims under federal law and "form part of  
19 the same case or controversy under Article III of the United States Constitution." 28 U.S.C. §  
20 1367(a).

21           7.       Because some of Plaintiff's claims arise under the laws of the United States,  
22 removal of this entire cause of action is therefore appropriate.

23 **This Court Is The Proper Venue**

24           8.       The original Complaint was filed in King County, Washington. Accordingly,  
25 removal to the Seattle Division of the United States District Court for the Western District of

1 Washington is proper because this Court is in the judicial district and division embracing the  
2 place where the state court case was brought and is pending. 28 U.S.C. §§ 1441(a), 1446(a).

3 9. Because this case initially was filed in King County, Washington, assignment to  
4 the Seattle Division is also proper pursuant to Local Civil Rule 3(e).

5 **Notice**

6 10. Pursuant to 28 U.S.C. § 1446(d) Defendant promptly will give written notice of  
7 removal to Plaintiff and will file a copy of the notice with the clerk of the Superior Court of  
8 Washington, King County.

9 WHEREFORE, Defendant Seattle Public Schools requests this Court assume  
10 jurisdiction of this cause, enter such orders and/or judgments necessary to protect its  
11 jurisdiction, and proceed with this case to its completion.

12  
13 DATED this 27th day of December, 2018.

14 CALFO EAKES & OSTROVSKY PLLC

15  
16 By: s/ Patty A. Eakes  
Patricia A. Eakes, WSBA #18888

17  
18 By: s/ Damon C. Elder  
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23 *Attorneys for Defendant Seattle Public Schools*  
24  
25

**CERTIFICATE OF SERVICE**

I, Erica Knerr, declare that I am employed by the law firm of Calfo Eakes & Ostrovsky PLLC, a citizen of the United States of America, a resident of the state of Washington, over the age of eighteen (18) years, not a party to the above-entitled action, and competent to be a witness herein.

On December 27, 2018, I caused a true and correct copy of the foregoing document to be served on counsel listed below in the manner indicated.

Judith A. Lonnquist, WSBA #06421  
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☐ Via Legal Messengers  
☐ Via First Class Mail  
☐ Via Facsimile  
☐ Via Electronic Mail  
☒ Via CM/ECF E-Service

*Attorneys for Plaintiff*

DATED this 27th day of December, 2018.

s/ Erica Knerr

Erica Knerr  
Legal Assistant